

Message Text

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ACTION OPIC-12

INFO OCT-01 AF-10 ISO-00 EB-11 AID-20 L-03 COME-00 INT-08

SCEM-02 OMB-01 TRSE-00 INR-10 CIAE-00 NSAE-00 COA-02

INRE-00 SSO-00 /080 W

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O 131130Z OCT 73

FM AMEMBASSY MOGADISCIO

TO SECSTATE WASHDC IMMEDIATE 1332

UNCLAS MOGADISCIO 1524

PASS OPIC FOR GILBERT FROM HOEOLLER

E.O. 11652: N/A

TAGS: EIND SO

SUBJ: FEARN/PRODMA

REF: A. MOGADISCIO 1498; B. MOGADISCIO 1514; C. STATE 202463

1. CHIEF STATE ATTORNEY HANDED HOEVELER LETTER WITH TERMS AS STATED PARA 2, REF B. POUCHING COPY. LETTER DOES NOT MENTION DATES OF PAYMENT U.S. DOLLAR EQUIVALENT 300,000 SO. SH. FOR BUNKERING. THIS OMITTED ON PURPOSE AS IT IS POSSIBLE PETROL AGENCY OR GSDR WILL SHORTEN PAY OUT PERIOD. CHIEF COUNSEL'S POSITION OUT OPINION SOUND LEGALLY.

2. IF GSDR HAD BOUGHT OUR DEAL THEY WOULD BECOME 49 PERCENT OWNERS OF A COMPANY 51 PERCENT OF WHICH IS OWNED BY "BAD GUYS" -- ONE OF WHOM IS STILL IN A SOMALI PRISON. TO ACQUIRE CLEAN TITLE TO REMAINING ASSETS THEY WOULD HAVE TO LIQUIDATE COMPANY AND HAVE ASSETS ASSIGNED TO THEM BY THE COURT AS ONLY CREDITOR; THEY WOULD RISK, AS WE DO, HAVING THEIR ACTION OPPOSED BY THOSE SAME SHARE HOLDERS AND FIND THEMSELVES IN A COURT FIGHT WITH THEM. THEY ALSO RISK POSSIBLE THIRD PARTY CLAIMS AND WOULD HAVE TO PAY COST OF LIQUIDATION.

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3. ONLY WAY FOR THEM TO AVOID ALL THAT IS TO FORCE LIQUIDATION

BY FEARN OR OPIC FOR COMPENSATION FOR NATIONALIZATION BUNKERING TO FEARN THEY THEN WOULD BUY THE ASSETS AND NOT JUST THE STOCK AND PROMISSORY NOTES, AND THE POSSIBLE HEADACHES AND LEGAL AND POLITICAL COMPLICATIONS THAT GO WITH IT.

4. REGARDLESS OF LEGAL ARGUMENTS, FACT IS THEY HAVE DECIDED TO GO THE FEARN LIQUIDATION FIRST ROAD AND IF WE WANT TO SELL WE HAVE NO ALTERNATIVES EXCEPT START LIQUIDATION IMMEDIATELY.

5. CHIEF COUNSEL MOST FRIENDLY AND COOPERATIVE AND BELIEVE WILL EXPEDITE AS PROMISED.

6. BELIEVE NOT USEFUL RECOUNT DETAILS OF SOMALI LIQUIDATION PROCEDURES. SHEIKH AHMED WORKING WITH CHIEF STATE COUNSEL WILL USE LEAST EXPENSIVE AND MOST EXPEDITIOUS WAY TO SAVE FEARN/OPIC TIME AND MONEY.

7. CHEAPEST AND QUICKEST IS TO HAVE SOMALI STOCKHOLDERS SIGN WAIVERS AGREEING TO LIQUIDATION AND ASSIGNMENT ALL ASSETS TO FEARN. FAILING THIS, AHMED WOULD ASK FOR "INJECTIVE DECREE" AND COURT WOULD ASSIGN ASSETS. USING EITHER ABOVE TOW PROCESSES, COSTS ARE NEGLIBLE.

8. PROCESS ONLY BECOMES LONG AND EXPENSIVE IF LIQUIDATION APOSED BY SOMALI SHAREHOLDERS AND AN ACTION IN BANKRUPTCY IS UNDERTAKEN. THEN REGISTRATION FEE IS ONE PERCENT OF VALUE OF ASSETS AND REFEREE'S FEES CAN GO AS HIGH AS FIVE PERCENT OF ASSETS.

9. ALL FACTORS CONSIDERED, LEGAL, POLITICAL AND PRACTICAL, URGE OPIC/FEARN AUTHORIZE AHMED TO PROCEED TO OBTAINING ASSIGNMENT OF PRODMA ASSETS TO FEARN USING MOST PRACTICAL AND INEXPENSIVE METHOD AVAILABLE.

10. ADVISE BY NIACT IMMEDIATE PRIOR 1200Z OCTOBER 14, SINCE REPLY AFFECTS WHETHER HOEVELER CAN DEPART AS SCHEDULED AT 1500 OCT 14.
KIRK

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 13 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973MOGADI01524
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: MOGADISCIO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731034/aaaaayug.tel
Line Count: 98
Locator: TEXT ON-LINE
Office: ACTION OPIC
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: A. MOGADISCIO 1498; B. MOGADISCIO 15, 14; C. STATE 202463
Review Action: RELEASED, APPROVED
Review Authority: collinp0
Review Comment: n/a
Review Content Flags:
Review Date: 05 DEC 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05-Dec-2001 by bryansd0>; APPROVED <15 FEB 2002 by collinp0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FEARN/PRODMA
TAGS: EIND, SO
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005